

REMARKS

Applicants respectfully request entry of the amendments and remarks submitted herein. Claims 1 and 27 have been amended herein to refer to biologically active fragments instead of analogs. Support for the concept of fragments can be found, for example, at page 3, lines 12-13, page 3, lines 6-8, and page 18, lines 28-29.

Claims 1, 2, 5, 6, 7, 8, 9, 10 and 27-31 are currently pending and claims 19-22 stand withdrawn. Reconsideration of the pending application is respectfully requested.

Double Patenting

The provisional rejection of claims 1, 2, 5-10 and 27-31 on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1-34 and 38-40 of co-pending U.S. Application No. 10/469,273 is maintained for reasons of record.

Applicants respectfully note that U.S. Application No. 10/469,273 is abandoned (as of April 10, 2007). Therefore, the provisional rejection of the pending claims on the grounds of non-statutory obviousness-type double patenting over claims in U.S. Application No. 10/469,273 is moot.

The 35 U.S.C. §112 Rejections

Claims 1, 2, 5-10 and 27-31 stand rejected under 35 U.S.C. §112, first paragraph, as the Examiner asserted that those claims fail to comply with the written description requirement and are enabled for peptides having the sequence of SEQ ID NO:14 but is not enabled for biologically active analogs thereof. This rejection is respectfully traversed with respect to the pending claims.

Applicants have amended claims 1 and 27 herein to replace 'biologically active analogs' with "biologically active fragments". As indicated above, support for this amendment can be found, for example, at page 3, lines 12-13, page 3, lines 6-8, and page 18, lines 28-29 of the specification. In addition, U.S. Application No. 10/469,273 (published as US 2004/0214184), which names the same inventors as the present application, discloses the effectiveness of over 75

different fragments of the peptide having the sequence of SEQ ID NO:14 (referred to as SEQ ID NO:1 and CD66a-24 in U.S. Application No. 10/469,273). Paragraph [0064] in U.S. Application No. 10/469,273 states that "[e]ach of the smaller peptides (S 180, S181, and S182) had activity in the T-cell activation assay (FIG. 3), demonstrating that the entire amino acid sequence of S28 is not required for activity."

For these reasons, Applicants believe that the claims as amended meet both the enablement and written description requirements. In view of the amendments and remarks herein, Applicants respectfully request that the rejections of the pending claims under 35 U.S.C. §112, first paragraph, be withdrawn.

Request for Rejoinder

Applicants submit that the amendments herein result in a common technical feature between the pending claims and the withdrawn, non-elected claims 19-22. For example, independent claim 19 corresponds essentially to a method of using the isolated peptide of claim 1. Therefore, Applicants request that claims 19-22 be rejoined with the elected claims under PCT Rule 13 and MPEP §821.04.

CONCLUSION

Applicants respectfully request allowance of claims 1, 2, 5, 6, 7, 8, 9, 10, 19-22 and 27-31 are currently pending and claims. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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